

WANDA M. PATTON
Claimant

BAZZANO CLINIC
Respondent

INSURANCE COMPANY UNKNOWN
Insurance Carrier

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Having reviewed the entire evidentiary file contained herein, the Board finds the Award of the Administrative Law Judge should be affirmed.

Claimant alleges bilateral upper extremity injuries associated with her employment with respondent. Claimant's job included pulling charts, opening and closing clasps of the charts, filing and cleaning. She first began having problems in May or June 1998. Claimant testified her hands began going numb and she would awaken at night with pain and numbness.

Claimant was referred to orthopedic surgeon John M. Veitch, M.D., in Joplin, Missouri. After a series of tests, claimant underwent a carpal tunnel release in the left hand on July 8, 1998. A right hand carpal tunnel release was performed on October 13, 1998. On December 2, 1998, claimant was returned to regular work duties without restrictions. Dr. Veitch assessed claimant a 10 percent impairment to each upper extremity at the wrist pursuant to the AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition. During his deposition and in his medical reports, Dr. Veitch, on several occasions, addressed whether claimant's bilateral carpal tunnel syndrome resulted from her work. Dr. Veitch's ultimate opinion was that he could not make a determination within a reasonable degree of medical certainty whether claimant's condition was caused or contributed to by her work activities. Dr. Veitch went on to state he simply did not know what caused her problems. In his January 7, 1999, letter, he did, however, give a rating and referred to claimant's condition as a work-related problem.

Claimant was referred to orthopedic specialist William D. Smith, M.D., by her attorney. Dr. Smith reviewed claimant's treatment records, performed a physical examination and ultimately concluded claimant suffered from bilateral carpal tunnel syndrome secondary to repetitive use of her hands. He also assessed claimant a 10 percent impairment to each upper extremity according to the AMA Guides, Fourth Edition, which, when combined, converts to a 12 percent whole person impairment. Dr. Smith testified that he believed the opening and closing of binders and cleaning performed by claimant in her employment with respondent would more likely be the causative factor in claimant's carpal tunnel syndrome. When asked about respondent's contention that claimant scraped and painted a house and deck over the weekend, he felt that such activity would be significant, however, he did not back away from his position concerning the causative activities at work.

It is significant that Dr. Veitch, when asked about claimant's painting and scraping the house and deck, responded that, in considering the EMG and nerve conduction tests, it appeared as though claimant suffered from a chronic condition rather than a one-weekend traumatic incident. This further supports claimant's contention that her activities at work, at the very least, aggravated and, in all probability, caused her bilateral carpal tunnel condition.

In workers compensation litigation, it is claimant's burden to prove her entitlement to benefits by a preponderance of the credible evidence. K.S.A. 1997 Supp. 44-501 and K.S.A. 1997 Supp. 44-508(g). In this instance, the Board finds the medical evidence, when

considered in its entirety, supports claimant's contention that she suffered accidental injury arising out of and in the course of her employment with respondent, with the resultant bilateral carpal tunnel conditions. The Board, therefore, finds that the Award of the Administrative Law Judge granting claimant a 12 percent impairment to the body as a whole should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Board that the Award of Administrative Law Judge Steven J. Howard dated November 27, 2000, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 2001.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Patrick C. Smith, Pittsburg, KS
Garry W. Lassman, Pittsburg, KS
Steven J. Howard, Administrative Law Judge
Philip S. Harness, Director